



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Valley Regional Office

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Robert G. Burnley  
Director

R. Bradley Chowning, P.E.  
Valley Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT ISSUED TO

**Pallet Recycling**  
**Registration #: 81451**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and Pallet Recycling, for the purpose of resolving certain alleged violations of environmental law and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. “Order” means this document, also known as a Consent Order, and incorporates the additional terms and conditions as set out in Appendix A to this document.
6. “Pallet Recycling” means Pallet Recycling, Inc., a company authorized to conduct business in the Commonwealth of Virginia.
7. “Facility” means Pallet Recycling’s pallet recycling and wood mulching facility located at 835 Ash Street, Strasburg, Virginia.
8. “VRO” means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
9. “CFR” means Code of Federal Regulations.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. DEQ issued a Notice of Violation (NOV) to Pallet Recycling on September 22, 2004 for apparent violations of State Air Pollution Control Law and regulations occurring at Pallet Recycling’s facility located in Strasburg, Virginia. The NOV listed the following apparent violations of Pallet Recycling’s operating permit dated February 4, 2004:
  - a. Responding to a complaint about pervasive dust originating from the facility on September 1, 2004, DEQ inspector Jill Fazio conducted an EPA Method 9, one-hour visible emissions evaluation (VEE), on the facility’s 10-ton/hour wood grinder. Pallet Recycling’s Permit Condition 7 states that “Visible emissions from the wood grinding operation shall not exceed 5 percent opacity as determined by EPA Method 9.”
  - b. Further, Virginia Administrative Code section 9 VAC 5-50-260(A) states that “No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.”
  - c. Based on the highest six-minute averages recorded during the VEE, Pallet Recycling was observed to have exceeded its 5% opacity limit three times, with the highest recorded six-minute average at nearly double the allowable permit limit. In addition, the Facility’s wet suppression pollution control equipment may not have been optimized during this time.
  - d. Pallet Recycling was also unable to produce required monitoring records such as emissions data and operating parameters that are required to be maintained on-site in accordance with Permit Condition 11.

2. Pallet Recycling's representative, and vice president of sales and marketing, Bob Sherbert, met with DEQ permitting, compliance, and enforcement representatives on December 7, 2004 to discuss the violations and proposed corrective action.
3. During this meeting Pallet Recycling agreed in principle to the implementation of the corrective action set out in Appendix A of this Order and to the payment of a civil penalty.

#### **SECTION D: Agreement and Order**

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders Pallet Recycling, and Pallet Recycling voluntarily agrees:

1. To pay a civil charge of **\$1,350.00** within 30 days of the effective date of this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include Pallet Recycling's Federal Identification Number. Payment shall be by check, certified check, money order, or cashier's check payable to **"Treasurer of the Commonwealth of Virginia"** and sent to:

**Receipts Control  
Department of Environmental Quality  
P. O. Box 10150  
Richmond, Virginia 23240**

and;

2. Pallet Recycling agrees to implement the corrective action set out in Appendix A of this Order, which shall be Pallet Recycling's corrective action plan (CAP).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Pallet Recycling, for good cause shown by Pallet Recycling, or on its own motion after notice to Pallet Recycling and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Pallet Recycling admits to the allegations in Section C of this Order.
4. Pallet Recycling consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Pallet Recycling declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of Pallet Recycling to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Pallet Recycling to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Pallet Recycling shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Pallet Recycling shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pallet Recycling shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Pallet Recycling intends to assert will result in the impossibility of

compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Pallet Recycling. Notwithstanding the foregoing, Pallet Recycling agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Pallet Recycling. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pallet Recycling from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Pallet Recycling voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Feb 8, 2005.

  
Robert G. Burnley  
Department of Environmental Quality

Pallet Recycling voluntarily agrees to the issuance of this Order.

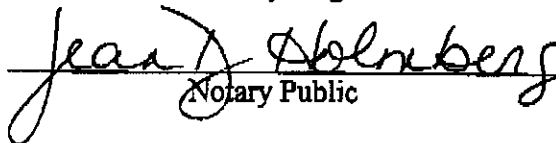
By: Robert S. Sherbert  
Date: 1-28-05

Commonwealth of Virginia

City/County of Warren

The foregoing document was signed and acknowledged before me this 28<sup>th</sup> day of January, 2005, by Robert S. Sherbert, who is  
(name)

General Mgr. of Pallet Recycling, on behalf of Pallet Recycling  
(title)

  
Notary Public

Commission expires: November 30, 2007.



## APPENDIX A Corrective Action Plan

In addition to the foregoing, the Virginia State Air Pollution Control Board orders and Pallet Recycling agrees to implement this corrective action plan as an additional provision to this Order.

1. Pallet Recycling agrees to submit a written corrective action plan to ensure that adequate wet suppression is utilized in accordance with Permit Condition 3, which states:

***Emission Controls** - Particulate emissions from the wood grinder (Ref. G1) shall be controlled by wet suppression. The wet suppression system shall be provided with adequate access for inspection. The wet suppression system shall be in operation when the wood grinder is operating.*

2. This corrective action plan must include a provision for the installation of an interlock to prevent operation of the wood grinder without the wet suppression system also being activated. This corrective action plan is subject to DEQ approval and must be submitted by January 31, 2005.
3. Pallet Recycling also agrees to submit a written corrective action plan to ensure that records are kept in accordance with Permit Condition 11, which states:

***On Site Records** - The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Valley Regional Office. These records shall include, but are not limited to:*

- (a) Annual throughput of wood (in tons) from the wood grinder (Ref. G1), calculated monthly as the sum of each consecutive 12-month period.*
- (b) Scheduled and unscheduled maintenance, and operator training.*
- (c) Results of all visible emission evaluations.*

*These records shall be available for inspection by the DEQ and shall be current for the most recent five years.*

4. This corrective action plan must be submitted by January 31, 2005 and is subject to final approval by DEQ.
5. **Implementation:** Pallet Recycling agrees to implement the DEQ-approved corrective action plan within 30 days after DEQ approval.